

## Office of the Secretary of Labor

## § 32.15

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer-sponsored activities, including those that are social or recreational; and

(9) Any other term, condition, or privilege of employment.

(c) *Collective bargaining agreements.* Whenever a recipient's obligation to comply with this subpart and to correct discriminatory practices impacts on and/or necessitates changes in a term of a collective bargaining agreement(s) to which the recipient is a party, the recipient shall attempt to achieve compliance consistent with the provisions of § 32.17(a). However a recipient's obligation to comply with this subpart is not relieved by a term of any such collective bargaining agreement(s).

(d) *Compensation.* In offering employment or promotions to handicapped individuals, the recipient shall not reduce the amount of compensation offered because of any disability income, pension or other benefit the applicant or employee receives from other source.

[45 FR 66709, Oct. 7, 1980, as amended at 68 FR 51368, Aug. 26, 2003]

### § 32.13 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant, employee or participant unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program or activity.

(b) In determining pursuant to paragraph (a) of this section whether an accommodation would impose an undue hardship on the operation of a recipient's program or activity, factors to be considered include;

(1) The overall size of the recipient's program or activity with respect to number of employees, number of par-

ticipants, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's workforce, and duration and type of training; and

(3) The nature and cost of the accommodation needed.

(c) A recipient may not deny any employment or training opportunity to a qualified handicapped employee, applicant or participant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee, applicant or participant.

(d) Nothing in this paragraph shall relieve a recipient of its obligation to make its program or activity accessible as required in subpart C of this part, or to provide auxiliary aids, as required by § 32.4(b)(7).

[45 FR 66709, Oct. 7, 1980, as amended at 68 FR 51368, Aug. 26, 2003]

### § 32.14 Job qualifications.

(a) The recipient shall provide for, and shall adhere to, a schedule for the review of the appropriateness of all job qualifications to ensure that to the extent job qualifications tend to exclude handicapped individuals because of their handicap, they are related to the performance of the job and are consistent with business necessity and safe performance.

(b) Whenever a recipient applies job qualifications in the selection of applicants, employees or participants for employment or training or other change in employment status such as promotion, demotion or training, which would tend to exclude handicapped individuals because of their handicap, the qualifications shall be related to the specific job or jobs for which the individual is being considered and shall be consistent with business necessity and safe performance. The recipient shall have the burden to demonstrate that it has complied with the requirements of this paragraph.

### § 32.15 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient